

Introduced by Senators Perata, Burton, and Torlakson
(Coauthors: Assembly Members La Suer, Mullin, and Wiggins)

February 21, 2003

An act to amend Sections 66540.14, 66540.16, 66540.20, 66540.22, 66540.40, and 66540.72 of, and to repeal Section 66540.23 of, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 915, as introduced, Perata. San Francisco Bay Area Water Transit Authority.

Existing law creates the San Francisco Bay Area Water Transit Authority with specified powers and duties relative to the development of a plan for implementation and operation of a water transit system on San Francisco Bay. Existing law provides that the authority may not operate a water transit system until the plan has been statutorily approved by the Legislature. Existing law also provides that the authority shall be funded from appropriations in the annual Budget Act and imposes restrictions on the regional transportation funds that the authority may apply for to fund operation of the water transit system.

This bill would delete the requirement for that the authority's plan be statutorily approved prior to commencement of operation of the water transit system. The bill would delete the requirement to fund the authority through the annual Budget Act and would require that the authority be funded from proposed increases in bridge tolls and various other funding sources. The bill would revise other provisions relating to safety of vessel operations and air quality standards of vessels operated by the authority. The bill would require the Metropolitan Transportation Commission to consider the recommendations of the

authority in programming certain transportation funds. The bill would make other related changes.

Because the bill would impose requirements on the authority and the Metropolitan Transportation Commission, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66540.14 of the Government Code is
 2 amended to read:
 3 66540.14. ~~Not later than six months from the date of the first~~
 4 ~~meeting of the board, the chief executive officer, with the advice~~
 5 ~~and consent of the board, shall convene a community advisory~~
 6 ~~committee to assist and advise the board in carrying out its~~
 7 ~~functions. The community advisory committee shall meet on a~~
 8 ~~regular basis. The~~ *There shall be a community advisory*
 9 *committee, which shall meet on a regular basis and which shall*
 10 *include one member representing each local jurisdiction in which*
 11 *a water transit terminal exists or is proposed, and one member*
 12 *representing each special district providing public water transit*
 13 *services. Unless appointed under subparagraph (B) of paragraph*
 14 *(2) of subdivision (a) of Section 66540.2, the members one*
 15 *member shall be appointed by the county board of supervisors and*
 16 *the city council of each county or city in which a water transit*
 17 *terminal is located or is proposed to be located, or by the county*
 18 *board of supervisors if the terminal is located or is proposed to be*
 19 *located in an unincorporated area, with one member appointed by*

1 the Golden Gate Bridge, Highway and ~~Transit~~ *Transportation*
2 District. The community advisory committee shall appoint one of
3 its members to the board.

4 SEC. 2. Section 66540.16 of the Government Code is
5 amended to read:

6 66540.16. (a) ~~Not later than six months from the date of the~~
7 ~~first meeting of the board, the chief executive officer, with the~~
8 ~~advice and consent of the board, shall convene a technical advisory~~
9 ~~committee to assist and advise the board in carrying out its~~
10 ~~functions. The technical advisory committee shall meet on a~~
11 ~~regular basis. The~~ *There shall be a technical advisory committee,*
12 *which shall meet on a regular basis, and which* shall consist of
13 members representing local, regional, state, and federal agencies,
14 operating ground transportation agencies, and operating water
15 transit services.

16 (b) Additional members shall include at least one member who
17 represents each of the following interests: fish and wildlife,
18 recreational boating, private environmental protection entities,
19 business, real estate development, architecture, urban planning,
20 private sector vessel operators, and organized labor, as well as the
21 public at large.

22 SEC. 3. Section 66540.20 of the Government Code is
23 amended to read:

24 66540.20. (a) The authority shall prepare ~~and~~, adopt, *and*
25 *update as required* a San Francisco Bay Area Water Transit
26 Implementation and Operations Plan. The plan shall include all
27 appropriate landside, vessel, and support elements, operational
28 and performance standards, and policies. ~~In preparing the plan, the~~
29 ~~authority shall review and consider, in addition to other materials~~
30 ~~and information, the findings presented in the document entitled~~
31 ~~“San Francisco Bay Area Water Transit Initiative,” dated~~
32 ~~February 1999, and prepared by the Bay Area Council and the Bay~~
33 ~~Area Economic Forum, and shall include, but need not be limited~~
34 ~~to, all environmental standards and conditions set forth in that~~
35 ~~initiative. The adoption of the plan shall be subject to public~~
36 ~~hearings in all nine San Francisco Bay area counties, and shall be~~
37 ~~reviewed by the Metropolitan Transportation Commission. After~~
38 ~~that review~~ *Plan updates shall be subject to public hearings.*
39 *Following the authority’s submission of a preliminary draft to the*

Legislature for review on December 12, 2002, the procedure regarding the plan shall continue as follows:

(1) ~~On or before December 12, 2002, the authority shall submit a preliminary draft of the final plan to the Legislature for review.~~

(2) ~~On or after the date of completion of all programmatic environmental impact reports in connection with adoption of the final plan, the authority shall submit the final plan to the Legislature for review and statutory approval.~~

(3) ~~The authority may implement the final plan only after the Legislature has approved it by statute.~~

(2) *Thereafter, the authority shall be authorized to operate a comprehensive San Francisco Bay Area regional public water transit system consistent with Section 66540.24.*

(b) The plan shall investigate and provide for terminal locations throughout the San Francisco Bay area.

(c) ~~The authority shall consult with the Metropolitan Transportation Commission in preparation of the plan. The commission shall provide input and data in response to the authority's requests in a responsive and timely manner. The authority shall submit the plan to the commission for review and comment not later than 90 days prior to the date the plan is submitted to the Legislature. The commission shall prepare and transmit comments on the plan to the authority not later than 90 days after the date the plan is submitted to the commission for review. The authority shall include any comments received from the commission when submitting the plan to the Legislature.~~

(d) ~~In compliance with subdivision (c), the Metropolitan Transportation Commission shall do all of the following:~~

(1) ~~Provide the authority with relevant data and analytical criteria for the evaluation of the cost effectiveness of alternative forms of transit, high-occupancy vehicle lane expansion, or other transportation investments in the corridors that potentially would be served by the authority.~~

(2) ~~Collaborate with the authority in updating the water transit demand model to include travel forecasting on each of the proposed water transit corridors.~~

(3) ~~Collaborate with the authority in the development of feeder system proposals.~~

1 ~~(4) Identify all necessary and appropriate steps required to~~
2 ~~coordinate the water transit system with other elements of the San~~
3 ~~Francisco Bay area transportation network.~~

4 ~~(e) The primary focus of the authority and the plan shall be to~~
5 ~~provide new or expanded water transit services and related ground~~
6 ~~transportation terminal access services that were not in operation~~
7 ~~as of June 30, 1999. The authority shall seek to cooperatively~~
8 ~~involve in the implementation, planning, and operations all~~
9 ~~existing water transit services and related ground transportation~~
10 ~~agencies in whose jurisdictions existing or planned water transit~~
11 ~~terminals are located. The authority shall operate in good faith to~~
12 ~~avoid negatively impacting water transit services and related~~
13 ~~ground transportation terminal access services in existence as of~~
14 ~~June 30, 1999. The authority may not request an allocation of any~~
15 ~~funds that were available to the Metropolitan Transportation~~
16 ~~Commission for allocation on June 30, 1999, including the~~
17 ~~revenues dedicated from state-owned bridges to ferry services as~~
18 ~~of June 30, 1999, and revenues derived continuously from sources~~
19 ~~in the amounts and manner as specified in law in effect as of June~~
20 ~~30, 1999, unless the request is for service transferred to the~~
21 ~~authority for vessels in operation as of January 1, 2003.~~

22 ~~(f)~~

23 ~~(d) The authority may not operate water transit services that are~~
24 ~~scheduled at the same time, from the same origin, and to the same~~
25 ~~destination as publicly sponsored services, if those public services~~
26 ~~were in operation as of June 30, 1999. The authority shall provide~~
27 ~~ferry services at only those terminals in which docking rights have~~
28 ~~been obtained with the consent of the owner of those rights.~~

29 ~~(g) Following approval by the Legislature, by statute, of the~~
30 ~~plan, the~~

31 ~~(e) The authority shall negotiate in good faith, as described~~
32 ~~below, with public sponsors of existing water transit services and~~
33 ~~related ground transportation terminal access services to provide~~
34 ~~services in the approved plan that would expand or augment~~
35 ~~existing services in their service district, as defined by law, or in~~
36 ~~plans of the Metropolitan Transportation Commission that existed~~
37 ~~and were in effect as of June 30, 1999. Good faith negotiations~~
38 ~~shall include all of the following steps:~~

39 ~~(1) Notification by certified mail from the authority to the~~
40 ~~public sponsor of existing water transit services or related ground~~

1 transportation terminal access services, hereafter referred to as the
2 notified agency, setting forth the specific services to be negotiated,
3 including performance standards and conditions and cost
4 reimbursement available according to the plan approved by the
5 Legislature.

6 (2) A period of 30 days from receipt of the notification required
7 under paragraph (1) for the notified agency to declare in writing
8 to the authority by certified mail their intent to negotiate in good
9 faith. If the notified agency does not so declare in writing to the
10 authority within 30 days, the notified agency shall be deemed not
11 interested in negotiating for the service and the authority may
12 announce a competitive bid process or take actions to directly
13 operate the service if the board of directors of the authority makes
14 a public finding that the action is in the public interest.

15 (3) A period of 90 days from declaration of intent to negotiate
16 by the notified agency for the authority and notified agency to
17 negotiate in good faith to reach agreement.

18 (4) The authority and notified agency, by mutual agreement,
19 may extend the period for good faith negotiations.

20 (5) Notwithstanding the procedure described in subdivision ~~(h)~~
21 ~~(f)~~, if at the end of 90 days or the mutually agreed-upon extension
22 period for negotiations, the authority and the notified agency have
23 not reached agreement for operation of the service, the authority
24 may announce a competitive bid process. The notified agency may
25 participate in that competitive bid process.

26 ~~(h)~~

27 ~~(f)~~ If at the conclusion of the good faith negotiations process
28 there is a dispute between the authority and the notified agency as
29 to the impact of proposed new services on existing services, the
30 matter shall be submitted to the Metropolitan Transportation
31 Commission for resolution pursuant to Section 66516.5 of the
32 Government Code. The Metropolitan Transportation Commission
33 shall make a determination based on the demand model adopted
34 by the authority as to whether the proposed new service will have
35 a minor or major impact on services existing as of June 30, 1999.
36 A minor impact means an impact that reasonably and potentially
37 diverts less than 15 percent of the passengers using services that
38 were in existence as of June 30, 1999. A major impact means an
39 impact that reasonably and potentially diverts 15 percent or more
40 of the passengers using services that were in existence as of June

30, 1999. If the proposed new service will have a major impact, the authority may not operate a water transit service in that location without mutual agreement between the authority and the notified agency. If the proposed new service will have a minor impact, the authority may initiate service according to the procedures contained in subdivision ~~(g)~~ (e).

SEC. 4. Section 66540.22 of the Government Code is amended to read:

66540.22. The San Francisco Bay Area Water Transit Implementation and Operations Plan *and updates to that plan* shall include all of the following:

(a) A detailed description of the high-speed water transit system, including, but not limited to, all routes to be operated and terminals to be served during the 10-year period following funding of the authority. The description may include phasing of the routes to be served and terminals to be constructed.

(b) An adopted demand model based upon ridership surveys conducted throughout the region and an updated demand model developed by the Metropolitan Transportation Commission.

(c) A water transit demand analysis, based upon the demand model, of the demand forecast and cost-effectiveness for the water transit system as a whole and for each corridor to be served.

(d) Architectural design criteria and standards for terminals and landside facilities to meet the performance objectives and operational criteria. The architectural design criteria and standards for terminals shall be developed ~~in cooperation~~ with *input from* the community advisory committee and in consultation with local jurisdictions that are prospective hosts of terminals for the water transit system.

(e) An intermodal plan to connect water transit services with other modes of transportation and public transit, including, but not limited to, cooperative arrangements with existing public transit services and new intermodal services. The intermodal plan shall be developed ~~in cooperation~~ with *input from* the community advisory committee, the technical advisory committee, and existing ground transportation agencies.

(f) A feasibility analysis and proposal for the use of new technologies and alternative fuels in marine engines and ground transportation intermodal services, to the extent feasible, to minimize air emission and water pollution impacts from the

1 system operations. The new technologies and alternative fuels
2 studied in the feasibility analysis and proposal for use in marine
3 engines shall include, but need not be limited to, natural gas, 100
4 percent biodiesel, hybrid solar in combination with electric or
5 wind power, and hybrid solar in combination with both solar and
6 wind power. The analysis shall be conducted in cooperation with
7 the Bay Area Air Quality Management District, the Regional
8 Water Quality Control Board, and the Bay Conservation and
9 Development Commission.

10 (g) A plan for monitoring air emissions and water impacts that
11 is mutually agreed upon by the authority and the entities listed in
12 subdivision (f).

13 (h) Design specifications for vessels, consistent with the
14 architectural design criteria and standards for the terminals and
15 landside facilities and the feasibility analysis to minimize air
16 emission impacts.

17 (i) A plan for acquiring the requisite vessels, including, but not
18 limited to, a proposed request for proposals, that incorporates the
19 design specifications and seeks to support shipbuilding and fleet
20 maintenance within the region to the extent possible.

21 (j) A plan for ensuring safety of vessel operations traveling on
22 the San Francisco Bay. The plan shall be developed in cooperation
23 with the California Maritime Academy and the United States
24 Coast Guard. *The authority shall implement the recommendations*
25 *in its safety plan for enhancement of ferry safety, security, and*
26 *waterways management. The authority shall assist the*
27 *Metropolitan Transportation Commission in updating the*
28 *Regional Ferry Contingency Plan and coordinating the response*
29 *of ferry operators for expanding water transit service in the San*
30 *Francisco Bay Area in the event of a regionwide disaster or*
31 *disruption of service resulting in damage to area bridges or*
32 *connecting freeways. The authority shall assist federal, state, and*
33 *regional agencies in coordinating a response for other*
34 *emergencies necessitating transportation of passengers by water.*

35 (k) A systemwide regional programmatic environmental
36 impact report and study of the plan, consistent with the
37 requirements of the California Environmental Quality Act
38 (Division 13 (commencing with Section 21000) of the Public
39 Resources Code) , and consistent with the substantive
40 requirements of the National Environmental Policy Act of 1969

(42 U.S.C. Sec. 4321 et seq.). The report shall include an independent evaluation conducted by the Bay Area Air Quality Management District to assess the air quality impacts of the complete water transit system, as set forth in the San Francisco Bay Area Water Transit Implementation and Operations Plan, in comparison to transporting the same number of people over the same distance by motor vehicles and other modes of transportation. *The air emissions standard for new vessels recommended in the authority's plan shall be at least 85 percent lower than the federal Environmental Protection Agency's standards for Tier II 2007 marine engines, as is consistent with the standards recommended in the authority's programmatic environmental review impact report.*

(l) An overall funding and financing plan based upon the detailed description of the water transit system and demand analysis, including, but not limited to, acquisition and construction phasing.

(m) A projection of capital and cash-flow requirements, including, but not limited to, costs for vessels and associated maintenance facilities, terminals and associated land use costs, and costs for feeder vehicles and associated maintenance facilities.

(n) A projection of operating costs and revenues, including, but not limited to, projected patronage, fare structure, and fare revenues for water transit and feeder services.

(o) A proposal for ongoing operating financial support.

(p) An analysis of the cost-effectiveness of the water transit system in comparison to other options for mobility and disaster relief and recovery. The analysis shall be prepared in cooperation with the Metropolitan Transportation Commission.

SEC. 5. Section 66540.23 of the Government Code is repealed.

~~66540.23. Notwithstanding any other provision of law, the authority may not operate the water transit system until the plan has been approved by the Legislature by statute.~~

SEC. 6. Section 66540.40 of the Government Code is amended to read:

66540.40. The authority may acquire, own, lease, construct, and operate water transit vessels and equipment, including, but not limited to, real and personal property, and equipment, and any

1 facilities of the authority, except those facilities providing access
2 to *units of the national-parks park system*.

3 SEC. 7. Section 66540.72 of the Government Code is
4 amended to read:

5 66540.72. The authority shall be funded ~~through~~
6 ~~appropriations made under the annual Budget Act from funds~~
7 *derived from proposed increases in tolls on state-owned toll*
8 *bridges in the Bay Area pursuant to the expenditure plan approved*
9 *by the Legislature in Senate Bill No. _____. The authority shall be*
10 *an eligible claimant for other transportation funding sources that*
11 *are made available by state, local, regional, state, and federal*
12 *agencies that are available to transit agencies and that are*
13 *consistent with this title. The Metropolitan Transportation*
14 *Commission shall consider the recommendations of the authority*
15 *in the authority's final implementation and operations plan in*
16 *programming formula and discretionary federal, state, and*
17 *regional funds for ferry capital and operation costs.*

18 SEC. 8. Notwithstanding Section 17610 of the Government
19 Code, if the Commission on State Mandates determines that this
20 act contains costs mandated by the state, reimbursement to local
21 agencies and school districts for those costs shall be made pursuant
22 to Part 7 (commencing with Section 17500) of Division 4 of Title
23 2 of the Government Code. If the statewide cost of the claim for
24 reimbursement does not exceed one million dollars (\$1,000,000),
25 reimbursement shall be made from the State Mandates Claims
26 Fund.